Affirmative Procurement Program Implementation

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Affirmative Procurement Program

- **Affirmative Procurement Program (APP)**
  - **Preference Program**
  - **Promotion Program**
  - **Estimation and Certification Program**
  - **Annual Review and Monitoring Program**

- **Program best developed and implemented through a documented plan**

- **Plan describes the installations methods and actions on how each element will be implemented**

Preference Program

- **Preference Program is how the installation is going to procure recycled-content products**
  - **Based upon EPA's Comprehensive Procurement Guideline (CPG) designations**
  - **http://www.epa.gov/cpg**
- **Targets include installation personnel, contractors, and potential vendors**
- **Accomplished through formal policy, action plans, contract language**

Preference Program Supply Sources

- **Buy products from Federal Sources of Supply**
  - **GSA, Gov't Printing Office, Javits-Wagner-O'Day (JWOD), Defense Supply Centers, and UNICOR**
- **Buy products from Commercial Sources of Supply**
  - **Office Depot, Staples, OfficeMax, etc.**

- **Product catalogs illustrate chasing arrow symbol " " identifying products contain recycled-content**

Preference Program Specification Review and Revision

- As required by RCRA Section 6002(d), all Federal agencies that have responsibility for drafting or reviewing specifications for procurement items shall
  - eliminate any exclusion of recovered materials and any requirement that items be made from virgin materials
  - assure such specifications require the use of recovered materials to the max. extent possible without jeopardizing the intended use of the item

- CE biggest player
  - Construction and Service contracts

Preference Program Specification Review and Revision

- **Many installations “generic” boilerplate language**
  - **Either provides all CPG items or links to website**
  - **Gets the installation nothing in return**

- **Need “specific” language**
  - **Tell contractor exactly what you want**
  - **Narrow requirements down**

Preference Program Specification Review and Revision

- **Example: Janitorial service contract**
  - **Contractor shall provide all sanitary tissue supplies. All listed supplies shall contain recovered fiber content at the levels indicated:**
  - **Recommended Recovered Fiber Content Levels for Commercial/Industrial Sanitary Tissue Products**

	Recovered Fiber	Postconsumer
• Bathroom Tissue	20-100	20-60
• Paper Towels	40-100	40-60
• Paper Napkins	30-100	30-60
• Facial Tissue	10-100	10-15

- NOTE: The content levels should be read as X% recovered fiber, including Y% postconsumer fiber and not as X% recovered fiber plus Y % postconsumer fiber.

Preference Program Specification Review and Revision

- **Narrow list of products down**
  - **Concentrate effort on products normally used**

- **Example: CPG list of Building insulation products**
  - **Rock Wool**
  - **Fiberglass**
  - **Cellulose Loose-Fill and Spray-on**
  - **Perlite Composite Board**
  - **Rigid Foam**
  - **Foam-in-place**
  - **Glass Fiber Reinforced**
  - **Phenolic Rigid Foam**
  - **Plastic, Non-woven Batt**

Preference Program Specification Review and Revision

- **Many products currently used already meet recommended recovered content**
  - **Fiberglass insulation - Johns Manville**

This fiberglass contains a minimum 25% recycled glass

  - **Concrete containing fly-ash (range 0-40%)**
    - **Colorado Springs, CO - 4% fly ash content range**
      - without fly ash, $4/cu. yd. more
  - **Restroom dividers (usually coated steel)**

Preference Program
EPA Recommendations

- **Read and understand EPA's recommendations**
  - **Shower and Restroom dividers/partitions**
    - EPA's recommendations do not preclude an agency from purchasing shower and restroom dividers/partitions manufactured from another material such as wood. They simply require that procuring agencies, when purchasing shower and restroom dividers/partitions made from plastic or steel, purchase these items made from recovered materials when they meet applicable specifications and performance requirements.
  - **Park Benches and Picnic Tables**
    - EPA's recommendations do not preclude a procuring agent from purchasing park benches and picnic tables made from other materials. They simply require that procuring agencies, when purchasing park benches or picnic tables made from plastic, aluminum, concrete, or steel, purchase these items made from recovered materials when these items meet applicable specifications and performance requirements.

Preference Program EPA Recommendations

- **Understand what the product is to be used for**
  - **Plastic Lumber Landscaping Timber and Posts**
    - Landscaping timbers and posts are used as raised beds, retaining walls, and terracing
    - EPA's recommendations do not preclude a procuring agency from purchasing wooden landscaping timbers and posts. They simply require that procuring agencies, when purchasing plastic landscaping timbers and posts, purchase these items made with recovered materials when the items meet applicable specifications and performance requirements.

Preference Program Construction Specifications

- Use specifications already existing
  - Unified Facilities Guide Specifications (UFGS)
    - Located at the Construction Criteria Base
  - Specifications of interest
    - Naval Facilities Engineering Command's (NAVFAC)
    - Nomenclature of UFGS-xxxxxN
    - "Preparing Activity" as NAVFAC

Preference Program Specific Requirements

- **Specific Requirements**
  - **Paper Products**
    - **EO 13101 Section 505 directs the purchase of printing and writing paper containing no less than 30% post-consumer materials. If not reasonably available, does not meet performance requirements, or only available at an unreasonable price, then each installation shall purchase paper containing no less than 20% post-consumer material…PERIOD!**

Preference Program Checklist Form

- **Recovered Material Checklist Form**
  - **Procurement originator shall fill out identifying the products to be procured in that particular contract**
  - **Checklist will help contractor/vendor with the identification of those products to be procured**
    - **Draws attention of the contractor to the EPA designated products contained within the contract**
    - **Ensure contractor is bidding the contract with the intent of procuring those items during the execution of the contract**
  - **Checklist will also help the contractor, on the completion of the contract, identify the products on which to estimate the percentage of total recovered material used the contract performance**
    - **Required by FAR clause 52-223-9(b)(1) {exceeding $100K}**

Preference Program Checklist Form

- **Recovered Materials Checklist Form**
- Procurement Request / Project No._____
- The EPA-designated items being procured are:
- ___ Cement/concrete containing: Coal fly ash or granulated blast furnace slag
- ___ Building insulation ___ Shower & restroom dividers/partition
- ___ Polyester carpet ___ Parking stops
- ___ Running tracks ___ Plastic fencing
- ___ Playground equipment ___ Patio blocks
- ___ Flowable fill ___ Latex paint
- ___ Floor tiles ___ Laminated paperboard
- ___ Structural fiberboard

- I hereby certify the Statement of Work/Specifications contain requirements for the requisition of recycled-content products listed above.

- _____
- Procurement Originator's Signature Office Symbol Date

Promotion Program

- Raises awareness on requirements
- Civil Engineer Squadron Environmental Flight is required to provide education and training
  - SAF/AQC and USAF/ILE policy
  - For all installation personnel
- Environmental funds can be used to execute program
  - Produce publications and general outreach
- Program is very flexible in what can be done
- Needs to be formalized in the plan
- Needs to be carried out as outlined
- Goal is to get the information on affirmative procurement to the people that procure such products

Promotion Program Examples

- **Opportunity Examples**
  - **Training sessions and workshops to educate personnel**
  - **Train personnel preparing solicitation packages**
  - **Publish articles in the installation newspaper**
  - **Conduct competition contests with rewards**
  - **Seek volunteer organizations for trial of new products**
  - **Consider using a facility construction project to showcase**
  - **Fact sheets on products for contractors**

Contractor Estimate, Certification and Verification Program

- **Program requires contractors and vendors to**
  - **Provide an estimate on recycled content of their products**
  - **Certify that the recycled content meets content standards in the installation's solicitation documents**
- **Installations verify these estimates and certifications through normal quality control assurance procedures**
- **RCRA Section 6002, amended by the Federal Acquisition Streamlining Act, only requires estimates for contracts valued at more than $100,000**
  - **If contract includes the purchase of EPA Guideline items**
- **Accomplished through contract provisions & clauses**

Estimate, Certification & Verification Program

Recovered Material Certification

- **Federal Acquisition Regulation (FAR) Provision 52.223-4 ‘Recovered Material Certification”**
  - **Prescribed in FAR 23.406(a)**
  - **Inserted in solicitations that will require the use of EPA-designated products during contract performance**
  - **Contractor/vendor/offeror is certifying, by signing the offer, that the percentage of recovered materials to be used will be at least the amount required by the applicable contract specifications**
- **Inserted regardless of contract value, if contract is for or specify the use of recovered content materials**
- **Important to update specifications to include language to procure CPG items**
- **No language, provision meaningless and useless**

Estimate, Certification & Verification Program

Estimates

- **FAR clause 52.223-9 “Estimate of Percentage of Recovered Material Content for EPA-Designated Products”**
  - **Prescribed in FAR 23.406(b)**
  - **Contracting Officers insert clause in all solicitations and contracts in excess of $100,000 that include 52.223-4**
  - **Contractor, on completion of contract, estimates the percentage of total recovered material used in contract performance**
    - **If applicable, include percentage of post-consumer content**
  - **Certification should be in the form of a label on the product or a statement verified by the vendor**

Estimate, Certification & Verification Program Alternate I

- **FAR clause 52.223-9 *Alternate I***
  - **Contractor certifies on completion of contract that the percentage of recovered material content for the EPA Guideline items met applicable contract specifications**
  - **All of this provided to CO prior to final payment**
  - **Contractor certifications maintained in contract file**
  - **Information not reported to HHQ**
  - **Used to verify affirmative procurement requirements are being met**

Estimate, Certification & Verification Program

Federal Sources of Supply

- **Federal supply sources such as GSA, GPO, DGSC**
  - **Established their own estimation, certification, and verification procedures**
  - **Federal agencies procuring designated items through these supply sources are not required to conduct independent estimation, certification, and verification procedures**
- **Not required for purchases made by Gov't Purchase Card (formally IMPAC) from non-federal supply sources**

Annual Review and Monitoring Program

- **Designed to assess the effectiveness of the installation at procuring products with recycled content each year**

- **Reviews should disclose recycled content products that are being procured and those that are not**
  - **If not, why**
  - **Describe steps to be made to procure such items in future**
  - **Update appropriate programs (Preference and Promotion)**

- **Review EPA designated products for additions**
  - **EO 13101 Section 402 allows one year from final rulemaking date to revise installations APP**
  - **Update specifications**

Annual Review and Monitoring Program

- **Opportunity for annual review is to use ECAMP**
  - **Each installation is required to conduct an annual environmental assessment (external and internal)**

- **Verify that Gov't Purchase Card holders are procuring recycled-content products**
  - **Purchase Card Program Manager is required to conduct surveillance on cardholders IAW AFI 64-117 para. 4.3.3.6.**
  - **Encouraged to provide feedback to CES/CEV**
    - **Update training program or provide remedial training**

Reporting

- Current AFI 32-7080 para. 3.5.4. requires purchases of recycled content products to be reported quarterly
  - Via WIMS-ES
- WIMS-ES no longer exists; replaced by ACES
- Requirement ignored
  - No programs in place
  - Purchases were not being tracked
  - Cumbersome
- Draft Metrics being developed
  - Uses DD Form 350 “Individual Contracting Action Report”
  - Improved, streamlined, and simplified
  - Requires reporting on contracts that have compliant clauses for EPA designated recycled content products
  - Required on contracts over $25,000 ($500 for construction)

Reporting DD Form 350

- **Block B12F used to report whether or not a contract includes a requirement for recycled content products**
  - **B12F EPA-Designated Product(s) _____ (A) EPA-Designated Product(s) with Minimum Recovered Material Content; (B) FAR 23.405(c)(1) Justification (Availability); (C) FAR 23.405(c)(2) Justification (Price); (D)FAR 23.405(c)(3) Justification (Performance); or (E) No EPA-Designated Product(s) Acquired**
  - **If B, C, or D is indicated, a written justification must be include in the contract file**
- **Block B12G indicates which FAR clause was include in the contract**
  - **B12G Recovered Material Clauses _____ (A) FAR 52.223-4; or (B) FAR 52.223-4 and FAR 52.223-9**

Exemptions

- **RCRA Section 6002(c)(1) allows freedom to not procure designated recycled content products**
  - **Decision based on exemptions**
    - **Not competitively available within a reasonable period of time**
    - **Fail to meet performance standards**
    - **Unreasonably priced**
  - **Decision not to procure shall be based on a written justification**
  - **Written justifications not required for purchases below the micro-purchase threshold**

Exemptions
"Reasonable Period of Time"

- Not clearly defined in any regulation or by any agency
- For general purposes
  - Determined by a "Need Date" and "Available Date"
  - If "Need Date" precedes "Available Date"
    - Exemption can be made
    - Document and place into contract file

Exemptions "Fails to Meet Performance Standards"

- RCRA Section 6002(c)(1) - exemption made on basis of National Institute of Standards and Technology (NIST)
  - If material is covered by such guidelines
- Not every material is covered by NIST
- Installations should use specifications
  - Including Facility Excellence Standards
- Caution: thoroughly investigate product and application
  - Polyester carpet made from plastic soda bottles
    - Does not meet performance standard for medium-high traffic
    - But can be used for low traffic areas
- If exemption claimed, the standard on what the product is judged must be clearly addressed in the justification

Exemptions
"Unreasonable Price"

- Designated products may have price that exceeds its virgin content counterpart
- Law allows us to purchase virgin products with a submittal of a written justification
- What is reasonable and unreasonable?
  - Judgment call
- Example – Janitorial service contract
  - Requires the procurement of toilet tissue and paper towels
  - Cost analysis show that contract cost increase of $2000
  - Decision needs to be made whether to spend extra money
  - Installations encouraged to allocate extra funds for the benefit of the overall program
- If exemption applied, justification must provide cost comparison of the two products – recycled vs. virgin

Written Justification

- **Decisions not to buy recycled content products must be justified in writing and placed in contract file**
  - **RCRA 6002 (c), EO 13101 Sec 402(c) and FAR 23.405(c)**
- **Not required for purchases below micro-purchase threshold ($2000 for construction; $2500 for others)**
- **Not required for items obtained through Federal supply sources (GSA)**

- **Two avenues for written justifications**
  - **Before contract solicitation**
  - **After contract award**

Written Justification

- **Before contract solicitation**
  - **Administer justification for items known that do not meet performance standards, significantly cost prohibitive, or unreasonably unavailable for contract execution**
- **After contract award**
  - **Means that the installation has determined it wants recycled content products and meets all criteria**
  - **Contractor submits information to CO for justification**
  - **If accepted, a contract modification initiated**
  - **In case of a price determination (indicating price of recycled content product is more expensive)**
    - **Determination would initiate a cost savings to the Gov't**
    - **Credit received on contract**

Written Justification

Procurement originator and/or technical personnel must check the appropriate justification(s), provide a written explanation, sign and date the form, and submit to CO.

Procurement Request / Project No._____

EPA Designated Item NOT being Procured:_____

___Designated Item is not available within a reasonable period of time.

(If contract greater than $25,000, on DD Form 350, line B12F, choose "B.")

Need Date:_____ Date Available:_____

___Designated Item is at an unreasonable price.

(If contract greater than $25,000, on DD Form 350, line B12F, choose "C.")

Price of Designated Item:_____

Price of Non-Recycled Item:_____

Written Justifications

Designated Item doesn't meet the installation's performance standards.

(If contract greater than $25,000, on DD Form 350, line B12F, choose "D.")

Technical or requirements personnel will describe the performance need, provide referencing document and section number, and explain briefly why a recycled content product will not meet the need.

_____

_____

_____

_____

_____

_____

This written justification is made in accordance with 42 USC 6962 (c) (1).

_____ _____

Procurement Originator Signature Date

Written Justifications

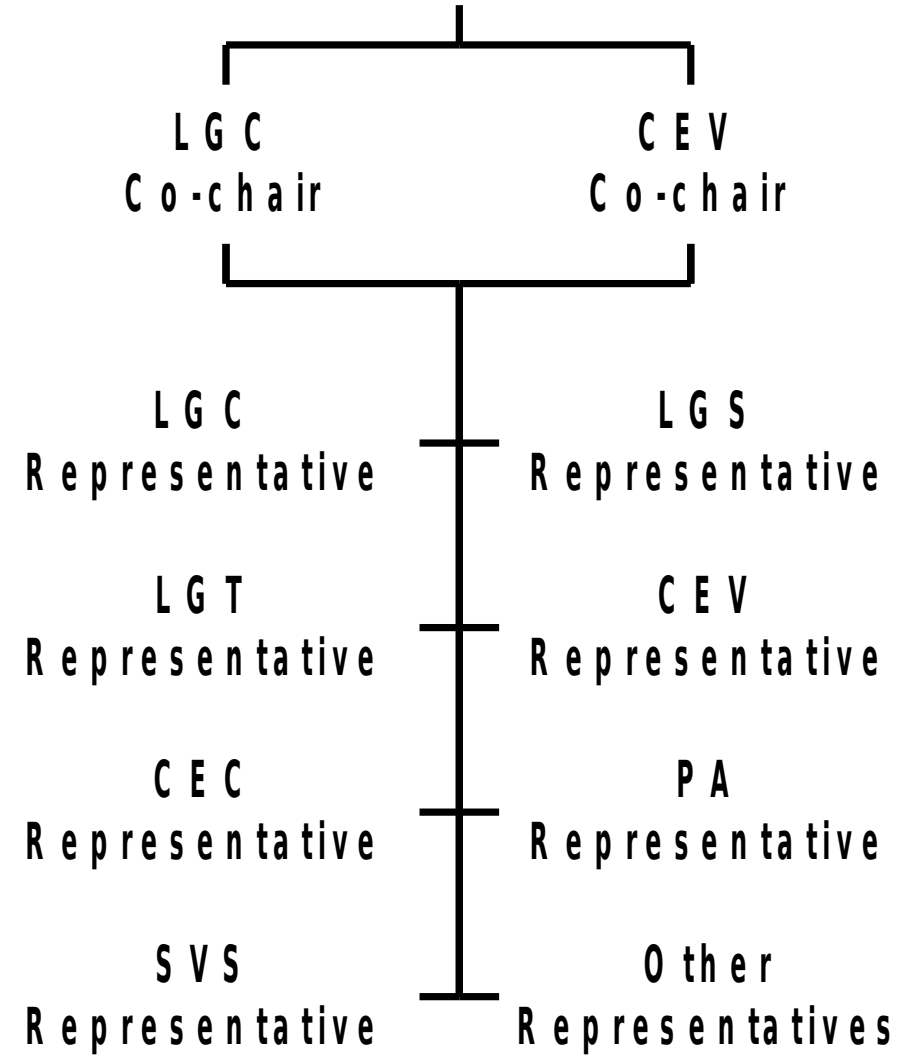
- **Rather than providing specific justification for each contract, establish a blanket justification for specific products**
- **During annual review, revisit blanket justifications to determine validity as markets, suppliers and economy change**

- **Office of Federal Procurement Policy Letter 92-4**
  - **Requires the use of life cycle cost analysis, wherever feasible and appropriate, in selecting products**

Affirmative Procurement Program Team

- Develop APP Team
  - USAF/ILE and SAF/AQC policy, 31 May 00
  - Responsibility on Environmental Protection Committee
  - Identifies two key organizations for implementation
    - CEV and LGC
- Recommended approach
  - EPC designate APP Team
    - Co-chaired by LGC and CEV
    - Representatives from LGC, LGS, LGT, CEC, CEV, PA, SVS

Affirmative Procurement Program Team



APP Team Roles and Responsibilities

- **CEV**
  - **Main POC for affirmative procurement**
    - **Regulatory requirements and compliance inspections**
    - **Education and training**
  - **Not POC for contractual issues**
    - **Upon request, provide guidance to CO**
  - **Maintain APP Team**
    - **Require additional members or replacements, as needed**
  - **Responsible for Education and Training for all personnel**
    - **CEV provide training to Gov't Purchase Card holders**
      - AFI 64-117 para. 4.3.3.3.2.9.

APP Team
Roles and Responsibilities

- **LGC**
  - **Administration of the FAR clauses in contracts**
    - **Make sure procurement specifications or requirements in new contracts to which FAR clauses can be upheld**
    - **CO shall review with contractors their role in the procurement of recycled content products during initial contract signing**
    - **Obtaining determinations, estimates, and certifications from procurement originators and contractors**
  - **Training (by CEV) of GPC holders on purchasing products**
  - **IPCPM is required to conduct surveillance of cardholders**
    - **Results maintained on file in IPCPM office**
    - **Encouraged to provide feedback to CEV on effectiveness of training program**
    - **Any problems identified, CEV should develop and conduct remedial training**

APP Team
Roles and Responsibilities

- **LGT**
  - **Ensure contracts include requirements for contractors to purchase re-refined oil and retread tires and reclamation of coolant is conducted**

- **CEC**
  - **Update boiler specifications to include products in each division rather than a standard section on environmental**
  - **Ensure A-E and SABER contracts are updated for them to design and include designated products**
  - **Verify construction contractors are adhering to those specifications and procuring such products when reviewing material submittals and conducting inspections**

APP Team
Roles and Responsibilities

- CEO
  - Responsibility for updating many service contracts
    - Grounds Maintenance to use hydraulic mulch, compost, lawn and garden edging, and garden and soaker hoses
    - Housing contractors to use reprocessed latex paints
    - Janitorial contractors to use toilet tissue and paper towels
- Security Forces and LGT
  - Force protection major issue
    - Major role in purchasing barricades, traffic cones, channelizers, and delineators for traffic management
- LGS
  - Support the program by procuring recycled products whenever possible

APP Team Roles and Responsibilities

- JAV
  - Assist APP Team in ensuring installation meets mandates of RCRA Section 6002
  - Assist in contract reviews that contract clauses are appropriately being applied
  - Assist in NOV resolution
- PA
  - Assist in the development of the Promotion Program
  - Help with disseminating information through articles in newspaper, base television news channel, web sites, brochures, or other media outlets

Funding

- **Environmental Funding can be provided for initial development of APP Plans**
- **Once Plans are developed, implementation requirements outlined in the APP Plan can be funded**
  - **Boiler specification review and rewrites**
  - **Promotion activities (outside O&S)**
  - **Others (submit and see)**
- **P2 Printing and Publication O&S**
  - **$2000 per year**

Questions?

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- **Please call or send email for slides or help**